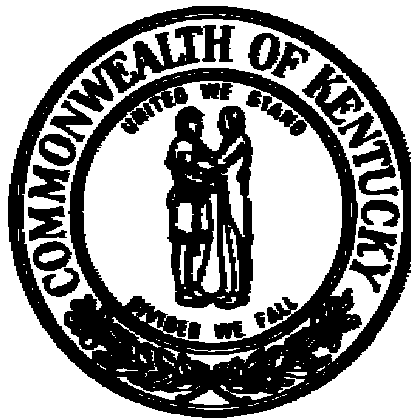


LAWS AND REGULATIONS RELATING TO

Licensed Dietitians and Certified Nutritionists



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The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

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Kentucky Revised Statutes

310.005 Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists;

(2) "Practice of dietetics or nutrition" means the integration and application of scientific principles of food, nutrition, biochemistry, physiology, and management, and the behavioral and social sciences in achieving and maintaining the health of people through the life cycle and in the treatment of disease. Methods of practice shall include, but are not limited to, nutrition assessments; development, implementation, management, and evaluation of nutrition care plans; nutrition counseling and education; and the development and administration of nutrition care standards and systems;

(3) "Dietitian" means a health care professional practicing dietetics and license pursuant to KRS 310.021;

(4) "Nutritionist" means a health care professional practicing nutrition and certified pursuant to KRS 310.031;

(5) "Nutrition care services" means:

(a) Assessing the nutrition needs of individuals and groups, and determining resources and constraints in the practice setting;

(b) Establishing priorities, goals, and objectives that meet nutrition needs that are consistent with available resources and constraints;

(c) Providing nutrition counseling in health and disease;

(d) Developing, implementing, managing, and evaluating nutrition care systems; and

(e) Developing, evaluating, altering, and maintaining appropriate standards of quality in food and nutrition care services;

(6) "Nutrition assessment" means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropocentric, physical, and dietary data to determine nutrient needs. "Nutrition assessment" includes recommending appropriate nutrition intake, including enteral and parenteral nutrition;

(7) "Nutrition counseling" means advising and assisting individuals or groups on appropriate nutrition intake as components of preventive, curative, and restorative health care by integrating information about the nutrition assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status;

(8) "Licensing agency" means the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists;

(9) "License," means a license issued by the board;

(10) "Certificate" means a certificate issued by the board;

(11) "Licensed dietitian" means a person licensed by the board and qualified pursuant to the criteria as established in KRS 310.021;

(12) "Certified nutritionist" means a person certified by the board and qualified pursuant to the criteria as established in KRS 310.031; and

(13) "Commission on Dietetic Registration" means the commission established by the American Dietetic Association for review and registration for registered dietitians.

310.021 Licensure as a dietitian.

(1) An applicant for licensure as a dietitian shall file a written application on forms provided by the board.

(2) An applicant for licensure as a dietitian shall meet the standards of professional responsibility and practice consistent with those standards of professional responsibility and practice adopted by the American Dietetic Association.

(3) An applicant for licensure as a dietitian shall be a graduate of a baccalaureate or post-baccalaureate degree program, approved by the board, from a United States regionally-accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, food systems management, or an equivalent major course of study.

(4) An applicant for licensure as a dietitian shall have successfully completed a documented supervised practice experience under the supervision of a registered dietitian who is accredited by the American Dietetic Association.

(5) An applicant for licensure as a dietitian shall have passed the national examination administered by the Commission on Dietetic Registration.

310.031 Certification as a nutritionist.

(1) An applicant for certification as a nutritionist shall file a written application on forms provided by the board.

(2) An applicant for certification as a nutritionist shall:

(a) Be a graduate of a baccalaureate degree program, approved by the board, from a United States regionally-accredited college or university; and

(b) Be a graduate of a master's degree program, approved by the board, in food science, nutrition, or a closely related area to food science or nutrition, and have a minimum of twelve (12) semester hours of graduate credit in human nutrition from a United States regionally-accredited college or university, or

(3) Be qualified for licensure as a licensed dietitian under the provisions of KRS 310.021 and apply to the board for certification as a certified nutritionist.

310.040 Kentucky Board of Licensure and Certification for Dietitians and Nutritionists.

(1) The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists is hereby created to be comprised of seven (7) members appointed by the Governor. Three (3) members shall be licensed dietitians, three (3) members shall be certified nutritionists and one (1) member shall be a public member who shall have no pecuniary interest in the nutrition field. Of the members from the nutrition field, one

(1) shall represent hospitals, one (1) shall represent health care facilities other than hospitals, one (1) shall represent state or local nutritional programs or shall be in private practice and one (1) shall be a dietetic educator. Appointments may be made from a list of nominees submitted to the Governor by the Kentucky Dietetic Association, the Kentucky Hospital Association, the Kentucky Association of Health Care Facilities, and the Kentucky Medical Association;

(2) The board shall be placed for administrative purposes under the Division of Occupations and Professions of the Finance and Administration Cabinet.

(3) Each member of the board shall serve for a term of four (4) years, except that for initial appointments, one (1) shall be for four (4) years, two (2) shall be for three (3) years, and two (2) shall be for two (2) years and one (1) shall be for one (1) year. No member shall serve more than two (2) consecutive terms and each member on July 15, 1994, shall serve on the board until his successor is appointed. Vacancies shall be filled by appointment of the Governor for the unexpired term.

(4) The board shall organize annually and elect one (1) of its members as chairman and one (1) of its members as secretary. A quorum of the board shall consist of four (4) members. The board shall meet at least quarterly and upon the call of the chairman, or at the request of two (2) or more members to the secretary of the board.

(5) Each member of the board shall receive compensation for services in an amount determined by the department, not to exceed one hundred dollars (\$100) dollars per meeting. The

members shall be reimbursed for all travel expenses for attending the meetings of the board. The compensation of members and employees of the board shall be paid from the revolving fund established in KRS 310.041(7).

310.041 Powers and duties of board.

The board shall:

(1) Promulgate administrative regulations in accordance with KRS Chapter 13A implementing the provisions of KRS 310.005, 310.021, 310.031, 310.040, 310.041, 310.042, 310.050, 310.070, and 310.990;

(2) Issue initial licenses and certificates and license and certificate renewals;

(3) Notify in writing any person determined by the board to be in violation of this chapter or the administrative regulations promulgated thereunder. The notification shall state that the person may request a hearing by the board within an amount of time specified by the board. If a hearing is requested, the hearing shall be conducted in accordance with KRS Chapter 13B. If the person fails to request the hearing, or if the board determines from the hearing that the person is in violation of this chapter or the administrative regulations promulgated thereunder, the board may apply to the Circuit Court of the county in which the violation occurred for an injunction or other appropriate restraining order to prohibit the continued violation;

(4) Publish and make available to the public, upon request and for a fee not to exceed the actual cost of printing and mailing, the administrative regulations of the board and the requirements for licensure and certification;

(5) Establish fees, subject to maximum limitations prescribed in this chapter, in amounts sufficient to pay the expenses of the board directly attributable to the performance of its duties pursuant to the provisions of this chapter;

(6) Review and approve or reject the qualifications of all applicants for licensure and certification and issue all approved licenses and certificates;

(7) Collect or receive all fees, fines, and moneys owed pursuant to the provisions of this chapter and to deposit all fees, fines, and moneys into the State Treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this Commonwealth;

(8) Deny, suspend, or revoke the license or certification of or to otherwise discipline or fine, by administrative penalty not to exceed five hundred dollars (\$500), or reprimand a license or certificate holder found guilty of violating any provisions of this chapter or the administrative regulations promulgated thereunder.

310.042 Conduct warranting denial, refusal to renew, or suspension or revocation of license or certificate or disciplinary action -- Administrative hearing.

(1) The board may deny or refuse to renew a license or certificate, suspend or revoke a license or certificate, or issue orders to cease and desist from certain conduct or to otherwise discipline an applicant, a licensee, a certificate holder, or a person found guilty of violating any provisions of this chapter, if that person has:

(a) Attempted to or obtained licensure or certification by fraud or misrepresentation;

(b) Engaged in habitual intoxication or unprofessional conduct, including, but not limited to, willful acts of negligence or a pattern of continued and repeated malpractice, negligence, or incompetence in the course of professional practice;

(c) Engaged in habitual intoxication or personal misuse of any drug, narcotics, or controlled substances so as to adversely affect his ability to practice;

(d) Been convicted of a felony or any offense under state and federal laws involving moral turpitude;

(e) Violated any lawful order or ruling of the board or any administrative regulation promulgated by the board; or

(f) Violated any provisions of this chapter.

(2) All administrative hearings for the disciplinary action against a license or certificate holder shall be conducted in accordance with KRS Chapter 13B.

310.050 Fees -- Annual renewal -- Automatic revocation for nonrenewal -- Reinstatement.

(1) The board, by duly-promulgated administrative regulation, shall establish fees for the application, reinstatement, and renewal of a license or certificate and fees for reciprocal and duplicate licensure or certification.

(2) No fee shall exceed fifty (\$50).

(3) A license or certificate shall be renewed annually and only upon timely payment of the renewal fee and documented successful completion of continuing education consistent with the requirements of the Commission on Dietetic Registration.

(4) A licensee or certificate holder who fails to renew his license or certificate within sixty (60) days after renewal becomes due shall have his license or certificate automatically revoked without further notice or hearing. Any person whose license is automatically revoked as provided in this subsection may have his license or certificate reinstated by the board in its discretion upon payment of all past-due renewal fees and a reinstatement fee.

310.070 Unlawful practice or use of title -- Exceptions.

(1) It shall be unlawful for any person to engage in the practice of dietetics or nutrition, to act or to represent himself to be a dietitian or a nutritionist, or to use such titles as "dietitian," "nutritionist," "licensed dietitian," "certified nutritionist," or such letters as "L.D.," "C.N.," or any word, letters, or title indicating or implying that the person is a dietitian or nutritionist, unless that person holds a license or certificate issued by the board.

(2) Nothing in this chapter shall be construed to prevent or restrict:

(a) A person licensed in this state from carrying out any therapy or practice for which he is duly licensed, including but not limited to physicians, osteopaths, podiatrists, chiropractors, dentists, and nurses;

(b) A student enrolled in an approved academic program in dietetics, if the practice constitutes a part of a course of study under the supervision of a licensed dietitian or certified nutritionist. The student shall be designated by title clearly indicating his status as a student or trainee;

(c) A dietitian serving in the Armed Forces, the Public Health Service of the United States, or employed by the Veterans Administration from engaging in the practice of dietetics, if that practice is related to his service or employment;

(d) Persons performing the activities and services of a nutrition educator in the employment of a federal, state, county, or municipal agency or in an elementary or secondary school or accredited degree granting educational institution, if the activities and services are part of a salaried position;

(e) Federal, state, county, or municipal employees involved with nutrition related programs, including but not limited to, the cooperative extension services, child nutrition programs, and Project Headstart from engaging in the practice of dietetics or nutrition within the discharge of their official duties. Any person engaging in the practice of dietetics or nutrition outside the scope of his official duties shall be licensed as provided in this chapter; or

(f) Persons employed in a hospital or nursing home from performing dietary services under the supervision of a licensed dietitian.

(3) The provisions of this chapter shall not apply to a person who owns a health food store or who manufactures, distributes, or sells health foods, dietary supplements, or vitamins nor shall the provisions of this chapter be construed to affect any other person who provides nutritional or dietary advice or sells nutritional or dietary supplements if the person does not use the title dietitian, licensed dietitian, or certified nutritionist.

310.080 Licensure and certification until July 15, 1995, of applicants certified under prior law.

For a period of one (1) year from July 15, 1994, the board shall issue a license to an applicant who is currently certified as a dietitian and a certificate to an applicant who is currently certified as a nutritionist.

310.200 Duty of treating dietitian or nutritionist utilizing telehealth to ensure patient's informed consent and maintain confidentiality -- Board to promulgate administrative regulations -- Definition of "telehealth".

(1) A treating dietitian or nutritionist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of dietitian and nutrition services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

310.990 Penalties.

(1) Any person who violates the provisions of this chapter or who seeks to be certified or is certified under false pretenses or as a result of fraudulent information, shall be guilty of a Class A misdemeanor.

(2) In addition, any person who violates the provisions of this chapter, shall be guilty of violating KRS 367.170 of the Consumer Protection Act and shall be subject to injunction and any other penalties provided for in KRS Chapter 367.

Kentucky Administrative Regulations

201 KAR 33:010. Fees.

RELATES TO: KRS 310.041(1), (5), 310.050

STATUTORY AUTHORITY: KRS 310.041(1), (5), 310.050

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessitated by KRS 310.041(5) and 310.050 and sets forth in detail all fees charged by the board.

Section 1. Application Fee. (1) The application fee for licensure as a dietitian shall be fifty (50) dollars.

(2) The application fee for certification as a nutritionist shall be fifty (50) dollars.

(3) Application fees shall not be refundable.

Section 2. Renewal Fees and Penalties. (1) The annual renewal fee for licensure or certification shall be fifty (50) dollars for each credential;

(2) The late renewal fee for late renewal during the sixty (60) day grace period shall be twenty-five (25) dollars for each credential; and

(3) The reinstatement fee for licensure or certification renewal after the end of the sixty (60) day grace period shall be fifty (50) dollars for each credential.

(4) Renewal and reinstatement fees shall not be refundable.

Section 3. Duplicate Registration Fees. The fee for a duplicate license or certificate shall be ten (10) dollars.

201 KAR 33:015. Application; approved programs.

RELATES TO: KRS 310.021(1), (3), 310.031(1), (2)

STATUTORY AUTHORITY: KRS 310.041(1), (2), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.021 establishes the standards for licensure as a dietitian. KRS 310.031 establishes the standards for certification as a nutritionist. This administrative regulation is necessary to clarify the procedure for submitting an application for licensure or certification, and delineate the characteristics of institutions which are approved by the board, as required by KRS 310.021 and 310.031.

Section 1. Application. (1) An application for a license to practice dietetics may be submitted after the requirements established in KRS 310.021 are met.

(2) An application for a certificate to practice nutrition may be submitted after the requirements established in KRS 310.031 are met.

(3) Each application for licensure or certification shall be accompanied by the application fee, established in 201 KAR 33:010, which is nonrefundable.

(4) All applications shall be signed by the applicant.

Section 2. Approved Programs. (1) A baccalaureate degree from a college or university approved by the board pursuant to KRS 310.021(3) or 310.031(2)(a) shall be a degree program that is listed as accredited by the Commission on Accreditation for Dietetics Education.

(2) The twelve (12) semester hours of graduate credit required by KRS 310.031(2)(b) shall include only didactic hours of graduate credit specifically related to human nutrition. Examples include:

- (a) Food sources of nutrients;
- (b) Physiological and chemical processes of digestion, absorption and metabolism;
- (c) Nutrient needs throughout the life cycle;
- (d) Nutrition assessment processes;
- (e) Pathophysiology of disease states;
- (f) Medical nutrition therapy;
- (g) Nutrient needs in exercise and fitness; and

(h) Nutrition in health and wellness.

(3) The twelve (12) semester hours of graduate credit required by KRS 310.031(2)(b) shall not include practicums, courses that are primarily obtained from work experiences, independent study, thesis, or dissertation credit hours.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Licensure/Certification", 2000 edition; and

(b) "Commission on Accreditation for Dietetics Education Coordinated Programs in Dietetics and Didactic Programs in Dietetics", 2000 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 33:020. Renewals.

RELATES TO: KRS 310.050

STATUTORY AUTHORITY: KRS 310.041, 310.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.050 provides that the board shall promulgate administrative regulations establishing procedures for annual renewal of licenses. This administrative regulation establishes those procedures.

Section 1. Regular Renewal. (1) A licensed dietitian or certified nutritionist shall annually, before November 1, pay to the board the renewal fee established by 201 KAR 33:010 for the renewal of the license or certificate.

(2) If a license or certificate is not renewed before November 1 of each year it shall expire.

(3) Compliance with continuing education requirements shall be documented as provided by 201 KAR 33:030.

Section 2. Late Renewal and the Grace Period. (1) A sixty (60) day grace period shall be allowed beginning November 1, during which a licensee or certificate holder may renew his license or certificate upon payment of the renewal fee plus the late renewal fee established by 201 KAR 33:010.

(2) A licensee or certificate holder may continue to practice during the sixty (60) day grace period.

(3) Persons requesting renewal of their certification during the sixty (60) day grace period shall comply with the continuing education requirements as required by KRS 310.050(3) and as specified by 201 KAR 33:030.

Section 3. Automatic Revocation. Upon revocation, a licensee or certificate holder shall:

(1) No longer be eligible to practice in the Commonwealth;

(2) Be sent notice at the last known address available to the board that license or certificate has been revoked and that he shall cease and desist practice.

Section 4. Licensure and Certification Reinstatement. After the sixty (60) day grace period, a license or certificate which has been automatically revoked due to failure to renew may be reinstated if the licensee or certificate holder has:

(1) Paid the renewal fee plus a reinstatement fee as set forth by 201 KAR 33:010; and

(2) Documented that he has complied with the continuing education requirements established by 201 KAR 33:030.

201 KAR 33:030. Continuing education requirements for licensees and certificate holders.

RELATES TO: KRS 310.041(1), 310.050(3)

STATUTORY AUTHORITY: KRS 310.041(1), 310.050(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.050(3) requires completion of continuing education prior to the renewal of a license or certificate, and KRS 310.041(1) requires the board to promulgate administrative regulations establishing continuing education

requirements. This administrative regulation establishes continuing education requirements for dietitians and nutritionists.

Section 1. (1)(a) The annual continuing education compliance period shall extend from November 1 of each year to October 31 of the next year.

(b) Prior to renewal of a license or certificate for the next licensure or certification period, a licensee or certificate holder shall have earned fifteen (15) hours of approved continuing education during the compliance period.

(c) A person who is licensed as a dietitian and certified as a nutritionist shall have earned a total of fifteen (15) hours of approved continuing education during the compliance period, prior to renewal of his license and certificate for the next licensure period.

(2) An initial licensee or certificate holder shall be exempt from the continuing education requirements for the first license or certification renewal.

(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity that has been approved by the board.

(4) No more than fifteen (15) hours of continuing education may be carried over into the next continuing education period.

(5) It shall be the responsibility of each licensee or certificate holder to finance the costs of continuing education.

(6) For purposes of the audit set forth in subsection (8) of this section, every licensee or certificate holder shall maintain a record of all continuing education courses attended for two (2) years after the continuing education period. Appropriate documentation to be kept includes the continuing professional education annual statement furnished by the Commission on Dietetic Registration or any of the following:

(a) Certificates of attendance for the prior approved continuing education;

(b) Transcripts for academic coursework;

(c) Reprints of journal articles published; or

(d) Proof of attendance, description of activity, and professional qualifications of the presenter for out-of-state continuing education activities.

(7) Each licensee or certificate holder shall sign a statement on the renewal application form indicating compliance with the continuing education requirements. No license or certificate shall be renewed without this sworn statement.

(8)(a) The board may audit a licensee's or certificate holder's continuing education records each year.

(b) Licensees or certificate holders who are audited shall be chosen in a random manner or at the discretion of the board.

(c) Falsifying reports, records, or other documentation relating to continuing education requirements shall result in formal disciplinary action.

Section 2. Approved Continuing Education Activities. (1) Obtaining continuing education.

(a) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity which has been approved by the board.

(b) The board shall approve continuing education hours which have been approved by the Commission on Dietetic Registration of the American Dietetic Association.

(2) Criteria for subject matter.

(a) Subject matter for continuing education hours shall reflect the educational needs of the licensed dietitian or certified nutritionist and the nutritional health needs of the consumer.

(b) Subject matter shall be limited to offerings that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth.

(c) The following areas shall be deemed appropriate subject matter for continuing education credit if, in the judgment of the board, they are directly related to the practice of dietetics or nutrition:

1. Sciences on which dietetic practice, dietetic education, or dietetic research is based including nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's nutritional health;

2. Nutrition therapy related to assessment, counseling, teaching, or care of clients in any setting; or

3. Management or quality assurance of nutritional care delivery systems.

(3) Standards for approval of continuing education, programs and activities. A continuing education activity shall be qualified for approval if the board determines that it:

(a) Constitutes an organized program of learning, including a workshop or symposium, which contributes directly to the professional competency of the licensee or certificate holder; and

(b) Pertains to subject matters which relate integrally to the practice of dietetics or nutrition; and

(c) Is conducted by individuals who have education, training and experience in the subject matter of the program.

(4) Academic coursework.

(a) Coursework shall be eligible for credit if it:

1. Has been completed at a U.S. regionally accredited college or university; and

2. Is beyond entry-level dietetics;

(b) One (1) academic semester credit shall equal fifteen (15) continuing education hours.

(c) One (1) academic quarter credit shall equal ten (10) continuing education hours.

(5) Scholarly publications. Publications may be approved if they are published in a refereed professional journal. Continuing education credit hours may be reported using the following guidelines:

Senior author: first of two (2) or more authors listed.

Co-author: second of two (2) authors listed.

Contributing author: all but senior of three (3) or more authors.

Research papers:

Single author - ten (10) hours.

Senior author - eight (8) hours.

Co-author - five (5) hours.

Contributing author - three (3) hours.

Technical articles:

Single author - five (5) hours.

Senior author - four (4) hours.

Co-author - three (3) hours.

Contributing author - two (2) hours.

Information sharing articles - one (1) hour.

Abstracts:

Senior author - two (2) hours.

Co-author - one (1) hour.

(6) Poster sessions.

(a) Continuing education credit may be obtained for attending juried poster sessions at national or state professional meetings that meet the criteria for appropriate subject matter established in subsection (3) of this section.

(b) One (1) hour of continuing education credit shall be allowed for each six (6) posters reviewed not to exceed five (5) hours in a continuing education year.

(7) Continuing education hours for presenters.

(a) Credit shall not be given for presentations to the lay public;

(b) Hours shall be requested only once for the same presentation;

(c) The presenter shall receive twice the number of hours approved for the activity;

(d) Two (2) hours per topic shall be allowed for presenters of poster sessions at national or state professional meetings; and

(e) A copy of the abstract or manuscript and documentation of the peer review process shall be included in the licensee's or certificate holder's documentation list.

Section 3. Procedures for Prior Approval of Continuing Education Activities. (1) An organization or person which seeks prior approval of a course, program or other continuing education activity shall apply to the board for approval at least sixty (60) days in advance of the commencement of the activity.

(2) The application shall state the:

- (a) Dates;
- (b) Subjects offered;
- (c) Objectives for the activity;
- (d) Total hours of instruction;
- (e) Names and qualifications of speakers; and
- (f) Other pertinent information.

(3) The board shall approve or deny timely and complete applications before the commencement of the activity.

(4) Review of programs. The board may monitor and review any continuing education program already approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may disapprove all or any part of the approved hours granted the program.

Section 4. Subsequent Approval of Continuing Education Activities. (1) Individual or group educational activities for which program providers or sponsors have not requested continuing education hour approval prior to the date of the activity may be approved by the board for continuing education credit. Activities which have received prior approval may not be submitted on a subsequent approval basis.

(2) The person seeking subsequent approval of continuing education activities shall submit the following information regarding the program attended:

- (a) Dates;
- (b) Subjects offered;
- (c) Learner educational objectives for the activity and anticipated outcomes;
- (d) Total hours of instruction;
- (e) Names and qualifications of speakers;
- (f) A timing outline, including time spent for registration, introductions, welcomes, and coffee and meal breaks;
- (g) The number of continuing education hours requested; and
- (h) Any other pertinent information.

(3) Requests for approval shall be submitted as follows:

- (a) Normal continuing education programs shall be submitted within thirty (30) days of completion;
- (b) Publications shall be submitted within six (6) months of the date of publication; and
- (c) Academic coursework shall be submitted within one (1) year of the course completion date.

(4) Activities which have not received prior approval may be submitted by individuals on a subsequent approval basis with rationale demonstrating continuing education value.

Section 5. Appeals Procedure. (1) A licensee or certificate holder may appeal decisions regarding continuing education by filing a written appeal.

(2) An appeal shall be sent to the board within thirty (30) calendar days after notification of denial and shall be considered by the board at its next scheduled meeting.

Section 6. Waiver of Continuing Education. (1) A licensee or certificate holder who is medically disabled or ill may be granted:

- (a) A waiver of the continuing education requirements; or
- (b) An extension of time within which to complete continuing education requirements, or make required reports.

- (2) A written request for waiver or extension of time shall be:
 - (a) Submitted by the licensee or certificate holder; and
 - (b) Accompanied by a verifying document signed by a licensed physician.
- (3) Waivers of the minimum continuing education requirements or extensions of time to complete them may be granted by the board for a period of time not to exceed one (1) calendar year.
- (4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee or certificate holder shall reapply.

201 KAR 33:040. Compensation of board members.

RELATES TO: KRS 310.040(5)

STATUTORY AUTHORITY: KRS 310.040(5), 310.041(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.040(5) requires the board to establish the compensation for board members by administrative regulation. This administrative regulation establishes the compensation of board members.

Section 1. Members of the board shall:

- (1) Receive compensation in the amount of \$100 per day for each day of actual board service; and
- (2) Travel expenses as provided by 200 KAR 2:006.

201 KAR 33:050. Complaint procedure.

RELATES TO: KRS 310.042(2)

STATUTORY AUTHORITY: KRS 310.041(1), (3), (8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.042 delineates the causes for which disciplinary action may be taken against a licensee. This administrative regulation establishes procedures for the filing, evaluation, and disposition of administrative complaints.

Section 1. Definitions. (1) "Chairman" means the chairman or secretary of the board.

(2) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (4) of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 310; the administrative regulations promulgated thereunder; or any other state or federal statute or regulation.

(3) "Complaint" means any written allegation of misconduct by a credentialed individual or other person which might constitute a violation of KRS Chapter 310, the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.

(4) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a licensed individual or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.

(5) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(6) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

Section 2. Receipt of Complaints. (1) A complaint:

(a) May be submitted by an:

- 1. Individual;
- 2. Organization; or
- 3. Entity.

(b) Shall be:

- 1. In writing; and
- 2. Signed by the person offering the complaint.

(c) May be filed by the board based upon information in its possession.

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of the written response of the individual named in the complaint, a copy of his response shall be sent to the complainant. The complainant shall have seven (7) days from the date of receipt to submit a written reply to the response.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the board shall consider the individual's response, complainant's reply to the response, and any other relevant material available. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the board at the earliest opportunity.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the investigator shall submit a report to the board of the facts regarding the complaint. The board shall determine whether there has been a prima facie violation of KRS Chapter 310 or the administrative regulations promulgated thereunder and a complaint should be filed.

(2) If the board determines that a letter of complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a violation has occurred but is not serious, the board may issue a written admonishment to the licensee. A copy of the written admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment, in writing, within thirty (30) days of its receipt and may have it placed in his permanent file. Alternatively, the licensee may file a request for a hearing with the board within thirty (30) days of the admonishment. Upon receipt of the request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

(4) If the board determines that a letter of complaint warrants the issuance of a formal complaint against a respondent, the board shall prepare a formal complaint which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chairman and served upon the individual as required by KRS Chapter 13B.

(5) If the board determines that a person may be in violation of KRS 310.070(1), it shall:

(a) Order the individual to cease and desist from further violations of KRS 310.070(1);

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 310.070(1) with a request that appropriate action be taken under KRS 310.990; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 310.070.

Section 5. Settlement by Informal Proceedings. (1) The board through counsel may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 6. Notice and Service of Process. A notice required by KRS Chapter 310 or this administrative regulation shall be issued pursuant to KRS Chapter 13B.

Section 7. Notification. The board shall make public:

(1) Its final order in a disciplinary action under KRS 310.042 with the exception of a written admonishment issued pursuant to Section 4(3) of this administrative regulation; and

(2) An action to restrain or enjoin a violation of KRS 310.070(1).

201 KAR 33:060. Supervision requirements.

RELATES TO: KRS 310.070(2)(f)

STATUTORY AUTHORITY: KRS 310.041(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.070(2)(f) establishes that persons employed in a hospital or nursing home may perform dietary services under the supervision of a licensed dietitian or certified nutritionist. This administrative regulation establishes the specific requirements to be met by supervisors of those persons.

Section 1. Definitions. (1) "Dietary services" means the data collection, observation, and implementation of nutrition care protocols as established by the supervisor.

(2) "Supervisee" means a person performing dietary services pursuant to KRS 310.070(2)(f).

(3) "Supervision" means the process of utilizing a partnership between a supervisor and a supervisee aimed at overseeing and insuring the overall quality of care for the client or patient.

(4) "Supervisor" means a licensed dietitian or certified nutritionist who is supervising a person performing dietary services pursuant to KRS 310.070(2)(f).

Section 2. (1) A supervisor shall be responsible for the actions of the supervisee.

(2) A supervisor shall maintain individual records for each supervisee which shall include the following information:

(a) Name of supervisee;

(b) Name and license number of the supervisor;

(c) The name of the hospital or nursing home where the dietary services are performed; and

(d) A statement that the supervisor shall provide adequate direct supervision to the supervisee to insure the provision of quality dietary services by the supervisee.

